

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 33649

STATE OF IDAHO,)	2008 Unpublished Opinion No. 450
)	
Plaintiff-Respondent,)	Filed: May 1, 2008
)	
v.)	Stephen W. Kenyon, Clerk
)	
DONALD N. BARGER,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Sixth Judicial District, State of Idaho, Franklin County. Hon. Don L. Harding, District Judge.

Order revoking probation and reinstating previously suspended unified four-year sentence with two-year determinate term for felony driving under the influence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Heather M. Carlson, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

PER CURIAM

Donald N. Barger pled guilty to felony driving under the influence, I.C. §§ 18-8004, 18-8005(5), and the district court imposed a unified four-year sentence, with a two-year determinate term. The court suspended the sentence and placed Barger on probation. Barger appealed, and this court affirmed his judgment of conviction and sentence in an unpublished opinion. *See State v. Barger*, Docket No. 30840 (Ct. App. Feb. 11, 2005). Subsequently, Barger admitted to violating several terms of the probation, and the district court consequently revoked probation and ordered execution of the original sentence. Barger appeals, contending that the district court abused its discretion in revoking probation.

It is within the trial court's discretion to revoke probation if any of the terms and conditions of the probation have been violated. I.C. §§ 19-2603, 20-222; *State v. Beckett*, 122 Idaho 324, 325, 834 P.2d 326, 327 (Ct. App. 1992); *State v. Adams*, 115 Idaho 1053, 1054, 772

P.2d 260, 261 (Ct. App. 1989); *State v. Hass*, 114 Idaho 554, 558, 758 P.2d 713, 717 (Ct. App. 1988). In determining whether to revoke probation a court must examine whether the probation is achieving the goal of rehabilitation and consistent with the protection of society. *State v. Upton*, 127 Idaho 274, 275, 899 P.2d 984, 985 (Ct. App. 1995); *Beckett*, 122 Idaho at 325, 834 P.2d at 327; *Hass*, 114 Idaho at 558, 758 P.2d at 717. The court may, after a probation violation has been established, order that the suspended sentence be executed or, in the alternative, the court is authorized under Idaho Criminal Rule 35 to reduce the sentence. *Beckett*, 122 Idaho at 326, 834 P.2d at 328; *State v. Marks*, 116 Idaho 976, 977, 783 P.2d 315, 316 (Ct. App. 1989). A decision to revoke probation will be disturbed on appeal only upon a showing that the trial court abused its discretion. *Beckett*, 122 Idaho at 326, 834 P.2d at 328.

Applying the foregoing standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion in revoking probation. Therefore, the order revoking probation and directing execution of Barger's previously suspended sentence is affirmed.